

The Court entered its judgment denying petitioner’s petition for writ of habeas corpus on August 8, 2007. Under Fed. R. App. P. 4(a)(1), petitioner’s time for filing an appeal ended on September 10, 2007. On October 17, 2007, petitioner moved for an extension of time to file a notice of appeal. Fed. R. App. P. 4(a)(5) requires that such a motion be brought “no later than 30 days after the time prescribed by Rule 4(a) expires . . .” Petitioner had until October 10, 2007, to timely file a motion under Fed. R. App. P. 4(a)(5). Petitioner, however, did not file the motion until October 17, 2007. As a result, the Court denied the motion for lack of jurisdiction.

Additionally, under 28 U.S.C. § 2253(c), petitioner may not take an appeal unless this Court or the Court of Appeals issues a certificate of appealability. This Court has stated that it will not issue a certificate of appealability. As a result, even if this Court had the discretion to enlarge the time for filing an appeal, it would not do so.

Accordingly,

IT IS HEREBY ORDERED that petitioner's second motion for extension of time to file an appeal [Doc. #16] is **DENIED**.


MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 3rd day of December, 2007.